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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,532	12/11/2000	Daniel J. Shoff	MS1-089USC2	8374
22801	7590	07/13/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/736,532

**Applicant(s)**

SHOFF ET AL.

**Examiner**

Jason P. Salce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 56-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/3/2005 have been fully considered but they are not persuasive.

Applicant argues that Hidary does not teach configuring or transmitting the digital data as recited in claim 56. At Column 3, Lines 54-58 by program creation and embedding the URL into the VBI. Clearly this is configuring digital data for transmission. Also note at Column 5, Lines 7-12 and Column 6, Lines 1-9 for defining that the digital data contains multiple display layouts (i.e. the web pages can be displayed in multiple ways along side the video program). For example, the URLs can display biographical information of a band, upcoming concert schedules and present audio clips for a band, therefore multiple display layouts are defined.

Applicant also argues that display is not performed "according to the display layout". A URL defines how the data is displayed along side the video program (see Column 6, Lines 1-25, therefore display is clearly performed according to the display layout.

Applicant also argues that Hidary does not describe, "how the supplemental hyperlink content and the video content program are to appear in relation to one another when displayed. Again, see Column 6, Lines 1-25 for the URL defining how the supplemental content is to be displayed along side of the video program.

Applicant argues that Dougherty does not teach, "dynamically changing the display layouts" in which, "multiple display layouts ... how the supplemental hyperlink

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content and the video content program are to appear in relation to one another when displayed". Dougherty discloses multiple display layouts a Column 19, Lines 19-27 and Lines 40-46 for storing each form in a linked list, therefore teaching multiple layouts (one layout for each form in the linked list of forms). Dougherty also discloses dynamically changing the display layouts at Column 21, Lines 11-38, where a script can control multiple aspects of information display, such as the forms, lists, buttons and timers. Therefore, a display layout can clearly be "dynamically changed" as broadly claimed.

Applicant also argues that Dougherty nor Throckmorton disclose the following aspects:

- configuring digital data, which defines a display layout prescribing how the supplemental hyperlink content and the video content are to appear in relation to one another when displayed.
- transmitting the digital data along with the video content program as two separate signals from two separate sources.
- displaying the supplemental hyperlink content and the video content program according to the display layout

The examiner disagrees. For example see Figure 1 for Dougherty clearly teaching displaying the supplemental hyperlink content and the video content program according to the display layout. Also note Figure 2A, for the video being transmitted from signal provider 208 and the digital data being transmitted from

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the compact protocol generator 210. Also note Figures 7A and 7B and Column 14, Lines 15-37 and Column 7, Lines 5-10 for Dougherty teaching configuring digital data, which defines a display layout prescribing how the supplemental hyperlink content and the video content are to appear in relation to one another when displayed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 56-59 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hidary et al. (U.S. Patent No. 5,778,181).

Referring to claim 56, Hidary discloses configuring digital data (URL transmitted in the VBI at Column 3, Lines 55-58) which defines a display layout prescribing how the supplemental hyperlink content (Web pages) and the video content program video programming) are to appear in relation to one another when displayed (see Column 5, Lines 7-12 and Column 6, Lines 1-9).

Hidary also discloses that the digital data (Web Pages) are selectively displayable in response to a viewer selection (see Column 5, Lines 52-55 for providing the user with the option to selection a web page for display).

Hidary also discloses transmitting the digital data and the video content program to a viewer-computing unit (see Column 4, Lines 12-17 and Local PC 16 in Figure 2).

Hidary also discloses displaying the supplemental hyperlink content and the video content program according to the display layout (see Column 6, Lines 9-11).

Hidary also discloses dynamically changing the display layouts of the supplemental hyperlink content and the video content program in response to said viewer's selections (see Column 5, Lines 48-55). Note that each time a viewer selects a different web page, different information is displayed (see Column 6, Lines 4-24 for displaying different types of web pages), and therefore the display layout is dynamically changed in response to a viewer selection. Also note that the display layout can be dynamically changed in response to the program the viewer is watching (see Column 6, Lines 4-24).

Referring to claim 57, Hidary discloses configuring the data to define multiple different display layouts that are selectively displayed to the viewer depending upon the viewer's selections of possible choices presented in the supplemental hyperlink content (see Column 5, Lines 16-19).

Hidary discloses dynamically changing the display layouts of the supplemental hyperlink content and the video content program in response to said viewer's selections (see Column 5, Lines 48-55). Note that each time a viewer selects a different web

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page, different information is displayed (see Column 6, Lines 4-24 for displaying different types of web pages), and therefore the display layout is dynamically changed in response to a viewer selection. Also note that the display layout can be dynamically changed in response to the program the viewer is watching (see Column 6, Lines 4-24).

Referring to claim 58, Hidary discloses transmitting the digital data along with the video content program as the same signal (see Column 3, Lines 46-50 and Lines 55-58).

Referring to claim 59, Hidary discloses receiving said signal containing the digital data and the video content program at the viewer-computing unit (see Column 4, Lines 37-40).

Hidary also discloses separating the digital data from the video content program at the viewer-computing unit (see Column 4, Lines 40-43).

Referring to claims 66-67, see rejection of claims 56-57, respectively.

3. Claims 56-60 and 66-68 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Dougherty et al. (U.S. Patent No. 5,848,352).

Referring to claim 56, Dougherty discloses configuring digital data, which defines a display layout prescribing how the supplemental hyperlink content and the video content are to appear in relation to one another when displayed (see Figures 7A and 7B and Column 14, Lines 15-37 for the Object Definitions describing how the content is displayed in relation to the video and Column 7, Lines 5-10 for the creation of such data).

Dougherty also discloses transmitting the digital data and the video content program to a viewer-computing unit (see Column 7, Lines 23-32).

Dougherty also discloses displaying the supplemental hyperlink content and the video content program according to the display layout (see Figure 1).

Dougherty also discloses dynamically changing the display layouts of the supplemental hyperlink content and the video content program in response to said viewer's selections (see Column 21, Lines 11-38 for using scripts to dynamically change the layout).

Referring to claim 57, Dougherty discloses configuring the data to define multiple different display layouts that are selectively displayed to the viewer depending upon the viewer's selections of possible choices presented in the supplemental hyperlink content (see Column 19, Lines 19-27 and Lines 40-46).

Dougherty also discloses dynamically changing the display layouts of the supplemental hyperlink content and the video content program in response to said viewer's selections (see Column 21, Lines 11-38 for using scripts to dynamically change the layout).

Referring to claim 58, Dougherty discloses transmitting the digital data along with the video content program as the same signal (see Column 7, Lines 60-62).

Referring to claim 59, Dougherty discloses receiving said signal containing the digital data and the video content program at the viewer-computing unit (see element 234 in Figure 2B and Column 9, Lines 18-19).



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Dougherty also discloses separating the digital data from the video content program at the viewer-computing unit (see Column 9, Lines 28-30).

Referring to claim 66, see rejection of claim 56.

Referring to claim 67, see rejection of claim 57.

Referring to claim 68, Dougherty discloses supplemental content for rendering to a viewer, which supplements viewing of a continuous, non-interactive video stream (see Figures 7A, 7B and Figures 8-13).

Dougherty also discloses one or more elements prescribing multiple display layouts (see Response to Arguments section above) of how the supplemental content is to be rendered along with, and relative to, the video stream (see again Figures 8-13 for objects that are to be displayed with the window displayed along with the video program in Figure 7A).

Referring to claim 60, see the rejection of claim 59, and also note that Dougherty discloses transmitting the digital data in the VBI along with the video content program in a separate signal (frequency), thereby teaching transmission in two separate signals (see Column 7, Lines 25-33 and the arguments made in the "Response to Arguments" section regarding separate transmission using the VBI and regular channel frequencies).

Further note that Dougherty also teaches transmitting the digital data from two separate sources by Figure 2A where the video is transmitted from signal provider 208 and the digital data is transmitted from the compact protocol generator 210.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 61-65 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty et al. (U.S. Patent No. 5,848,352) in view of Throckmorton et al. (U.S. Patent No. 5,818,441).

Referring to claim 61, Dougherty discloses all of the limitations in claim 56, as well as the transmission of two separate signals (see the rejection of claim 60 and arguments made in the "Response to Arguments" section), but fails to teach transmitting the video content and digital data as a first and second signal, respectively, from a first and second source, respectively.

Throckmorton discloses transmitting a first and second signal from two separate sources (see Column 4, Lines 34-51).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmission medium, as taught by Dougherty, using the two separate sources, as taught by Throckmorton, for the purpose of allowing a consumer to experience apparent interactivity with external data sources (see Column 2, Lines 49-50 of Throckmorton).

Claim 61 corresponds to claim 56, see rejection of claim 60 for transmitting the associated data and primary data on two different transmission mediums (sources).

Referring to claim 62, Dougherty discloses all of the limitations in claim 56, and also teaches creating a document having extension attributes that assist in defining the display layout (see Figures 8-13 of Dougherty), but fails to teach that this document uses the HTML standard. Throckmorton specifically uses HTML syntax to define the layout of the user interface displayed by a user (see Column 3, Lines 62-67). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the data layout data transmitted to the client, as taught by Dougherty, by using the HTML layout data, as taught by Throckmorton, for the purpose of lowering the cost of the system by providing a universal standard format that can be understood by all programmers around the world.

Claim 63 directly relates to claim 62, where Dougherty discloses an Interactive Icon Definition used for specifying a focus extension attribute (see Column 20, Lines 60-65).

Referring to claim 64, see rejection of claim 62.

Claim 65 corresponds to claim 64, where Dougherty discloses a tag to retrieve and display one of the images (see Column 21, Lines 11-38 for a script (tag) that can display an image upon actuation by a user).

Referring to claim 69, see rejection of claims 62 and 64.

### ***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner


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July 01, 2005

  
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**SUPERVISORY PATENT EXAMINER**  
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